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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-35223-2025

Date of decision: 11.07.2025

Balkar Singh

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Ritesh Pandey, Advocate
for the petitioner.

Mr. Rishabh Singla, AAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

The present petition has been filed under Section 483 of Bharatiya
Nagarik Suraksha Sanhita, 2023 seeking regular bail in case bearing FIR No.15
dated 30.04.2025 under Sections 21/27-A/29 of NDPS Act registered at Police
Station Shri Kartarpur Sahib Coridor, Batala, District Gurdaspur.

The FIR (*supra*) was registered based on the allegations
reproduced below:-

*‘SHO PS Shri Karpur Sahib corridor Sir today I SI along with HC
Satnam Singh number 3145 /BATALA, SR/CT Harpreet Singh 2319/Batala,
PHG Jatinder Singh 2072 alongwith laptop printer were on private vehicles
and going for patrolling and searching the bed elements and suspicious
vehicles toeards corridor T points to Pakhoke Tahli Sadhawali, Haruwal,
when police party reached just ahead of Pakhoke Tahli Sadawali near
Defence line then on the right side of the road one clean shaven persosn
was standing and who on seen the police party got perplexed and ttok turn
towards pusi and tried to throw a transparent plastic heavy envolap from
his left pockit of his lower and he was apprehabded by I ASI with the help of
my persons on the basis of suspicion and asked his name and address, he
disclosed his name as Balkar Singh son of Inder Singh resident of Haruwal
Colony to whom I ASI introduced himself of his rank and posting and told
him that he has suspicion that he was having some narcotic substance and
because of that his search is to be conducted but he has full right that he get
get his search from any gezetted officer or Magistrate by calling them at the
spot but Balkar Singh son of Inder Singh resident of Haruwal Colony has
told that he has full confidence in him and he can get his search thus*



consent memo was prepared as per law and witness have put their witness and accused Balkar Singh has also signed the same on it in Punjabi, before conducting the search the efforts were made to join witness from public but no body was willing to join by showing his compulsions, upon that I ASI in the presence of my witness conducted the search of transparent plastic envalap which accused Balkar Singh was holding in his left hand, Heroin was recovered, the same was weight measurement which was lying in the investigating kit the same comes to 20 gm along with polythine and I ASI with the help of my persons has conducted the search of Balkar Singh as per law, from the right pocket of his lower Rs 600 was recovered, the accused Balkar Singh has disclosed during interrogation that he has earned this amount after selling the narcotic and the video graphy was also done at the time of recovery as per section 105 of BNSS, the 20 gm heroin along with envalap was put in a plastic box and parcel was prepared and the recovered drug money of Rs 600 was put in a envalap and separate parcel was prepared and the same was seal but by seal as Nk and a sample seal was also prepared and the seal after use was handed over to HC Satnam Singh 3145/BTI , the recovered heroin and drug money was taken in to police possession vide separate recovery memo and the same was witness by the witness, the accused Balkar Singh by keeping 20 gm heroin and 600 as drug money has committed the offence under section 21-27 A-61-85 OF NDPS Act Thus request is being send through PHG Jatinder Singh for registration of FIR, FIR be registered and number be informed, special report be send to the higher official and ilaqa magistrate, I along with my persons are busy at the spot for further interrogation sd Naresh Kumar ASI PS SHRI KARTAR PUR SAHIBN CORIDOR DATED 30.04.2025'

Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the present case. The petitioner has been arrested during the statewide campaign in apprehending anti social element carrying out narcotic smuggling. The petitioner has been involved in a false case only to show successful interception of such cases and 20 grams of *heroin* has been planted upon the petitioner. Further, Rs.600/- which were recovered from the petitioner was shown as a drug money. All the mandatory safeguards provided under the NDPS Act have not been followed. Further, no Gazetted Officer has been called at the spot and there is no compliance of Section 50 of the NDPS Act. No effort was made to join any independent witness. The alleged recovery made from the petitioner does not fall within the



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ambit of commercial quantity and as such, the embargo under Section 37 of the NDPS Act is not attracted in the present case. He further submits that provisions under Section 27-A of the NDPS Act have been invoked without there being any evidence for a justifiable reason. The petitioner is not involved in any other case and he is a first time offender. Further, co-accused, namely, Pritam Singh has been granted the concession of regular bail by the learned Special Judge, Gurdaspur.

The learned State counsel has filed custody certificate in the Court today which is taken on record and per contra, opposes the grant of regular bail to the petitioner on the ground that the petitioner has been caught red handed and apprehended at the spot. He further submits that 20 grams of *heroin* was recovered from the conscious possession of the petitioner, as such, his complicity is duly established.

A two Judge Bench of Hon'ble Supreme Court in '***Satender Kumar Antil v. CBI***' (2022) 10 SCC 51, with respect to prevailing conditions of undertrial prisoner in India has observed:

"6. Jails in India are flooded with undertrial prisoners. The statistics placed before us would indicate that more than 2/3rd of the inmates of the prisons constitute undertrial prisoners. Of this category of prisoners, majority may not even be required to be arrested despite registration of a cognizable offence, being charged with offences punishable for seven years or less. They are not only poor and illiterate but also would include women. Thus, there is a culture of offence being inherited by many of them. As observed by this Court, it certainly exhibits the mindset, a vestige of colonial India, on the part of the investigating agency, notwithstanding the fact arrest is a draconian measure resulting in curtailment of liberty, and thus to be used sparingly. In a democracy, there can never be an impression that it is a police State as both are conceptually opposite to each other."

Having heard learned counsel for the parties and after perusing the



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record of the case, it transpires that the petitioner is behind the bars since 01.05.2025. The culpability, if any, would be determined at the time of trial. No useful purpose shall be served by further detention of the accused/petitioner. Keeping the petitioner in further detention without the prospect of the trial being concluded in the near future, would be violative of his rights under Article 21 of the Constitution of India.

In view the above, the present petition is allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, petitioner-Balkar Singh, is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

(HARPREET SINGH BRAR)
JUDGE

11.07.2025*Neha*

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No